
Utah State Archives and Records Service



**Government Records Access
and Management Act**

Legislative Intent

Government Records Access & Management Act (GRAMA) recognizes two constitutional rights:



- The public's right to access information about the public's business, and
- The public's right of privacy concerning personal information gathered by the government.

UCA 63G-2-102 (a)(b)

Duties of a Chief Administrative Officer

The chief administrative officer of each governmental agency shall:

- Establish and maintain an efficient records management program.
- Appoint one or more records officers to work with the State Archives in the care, maintenance, scheduling, disposal, designation, and classification, access, and preservation of records.

- Ensure that records officers receive training to receive and process records requests.
- Document the organization, decisions, and essential functions of the agency to protect the legal and financial rights of persons directly effected by the agency's activities.

- Submit to the state archivist proposed schedules of records for final approval by the records committee.
- Report to the state archives the designation and classification of each record series that it maintains.

This list is not exhaustive

UCA 63A-12-103(5)(8)(9)

Classifications

GRAMA establishes five classifications that are used to designate what the public's access to a record will be:

- Public
- Private
- Controlled
- Protected
- Exempt

Public Records

A record is presumed public unless otherwise expressly provided by statute.



UCA 63G-2-201(2)

Records that must be disclosed:

- Business address, business e-mail, and business telephone number of an employee or officer of a governmental entity
- Laws
- Name, gender, gross compensation, job title, job description, hours worked, dates of employment, and relevant education, of a current or former government employee
- Documentation of the compensation that a governmental entity pays to a contractor or private provider
- Information contained in a transcript, minutes, or report of the open portion of a public meeting

Records that are normally public:

- Administrative staff manuals
- Contracts entered into by a government agency
- Records relating to formal charges or disciplinary actions of a government employee
- Occupational, professional, and business licenses
- Chronological logs and initial contact reports
- Final audit reports

The above lists from section 301 are not exhaustive

Private Records

Records which are open to the subject of the records and other authorized persons or agencies.

Authorized persons or agencies include:

- The subject of the record
- A parent or guardian
- Individuals with power of attorney
- Authorized health-care providers

Records that are private:

- Eligibility for insurance and social services
- Data describing medical history or evaluation
- Library records that identify a patron
- Records that contain an individuals home address, home telephone number, Social Security number, insurance coverage, marital status, or payroll deductions

Private information may be redacted from a record that would otherwise be classified as public.

UCA 63G-2-302(1)

Private if properly classified:

- Race, religion, disabilities, or performance evaluations of a current or former government employee or applicant
- Individual finances (except those that must be disclosed in accordance with another statute)
- Any clearly unwarranted invasion of personal privacy

Controlled Records

Records which contain medical, psychological, or psychiatric information and are open to authorized persons, such as health care providers, but not open to the subject.

Records are controlled if a governmental agency reasonably believes:

- They would be damaging to the mental health of the subject or to the safety of any individual.
- Releasing the information would constitute a violation of normal professional practice and medical ethics.
- They are properly classified.

Protected Records

Records which contain non-personal information open to the person submitting the information and to authorized persons or agencies.

Protected records include:

- Test questions and answers used in future exams
 - Transcripts or minutes of a closed public meeting
 - Attorney work product
 - Records involved in an ongoing investigation
 - Records which could cause commercial injury or confer a competitive advantage
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- Records relating to transactions of real or personal property, including intellectual property
 - Records that could deprive a person of the right to a fair trial or impartial hearing
 - Records which could jeopardize the life or safety of an individual or security of governmental property
 - Drafts, unless otherwise classified as public

This list is not exhaustive.

Exempt Records

Records for which disclosure is limited or prohibited expressly by another statute, regulation or court rule.

Statutes, Regulation or Court Rules that Exempt Records

- Utah Code Annotated (UCA)
- Utah Administrative Code
- Utah Court Rules
- Code of Federal Regulations (CFR)
- Health Insurance Portability and Accessibility Act (HIPAA)
- Family Educational Rights & Privacy Act (FERPA)
- Americans with Disabilities Act (ADA)

This list is not exhaustive.

UCA 63G-2-201(3)(b)

Designating a Classification

- Designation and classification of records is the responsibility of the agency creating the record.
- It is good to designate a classification when records are scheduled. (www.archives.utah.gov)
- A record series must be classified when a record is requested.
- Records can have both a primary and secondary classification.

Designation of Classification Form

<http://www.archives.utah.gov/>

GRAMA Requests

- Make policies within your office about who handles these requests.
 - Make sure everyone in your office knows who handles requests.
 - Create a standard GRAMA request form (a sample form can be found on our website).
 - Get advice from administration and legal counsel in responding to a request.
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Receiving a GRAMA Request

- Requester shall submit request to the government agency that prepares, owns, or retains the record.
- Requester shall provide in writing:
 - Name
 - Address
 - Phone number
 - Description which identifies record with reasonable specificity

UCA 63G-2-204(1),(2)

Responding to a GRAMA request

- The agency must respond within 10 business days, or 5 business days for an expedited response.
- Providing a referral if agency does not maintain the record.
- Approving request and providing the record.
- Denying the request.
- Failure to respond is considered a denial.
- Notifying requester of EXTRAORDINARY CIRCUMSTANCES.

UCA 63G-2-204(3),(4)

Extraordinary circumstances include:

- Another agency is using the record. (Inform recipient agency of the designation/classification and access restrictions.)
- An agency is processing a large quantity of records.
- The requester asks for a voluminous quantity of records.
- The records may be undergoing an audit by a government entity.

Appropriate response to extraordinary circumstances:

- If only part of the records can be located, disclose a portion or provide the requester with an estimate of time required to respond.
- Provide request as soon as reasonably possible.

In response to a request, a governmental agency to:

- Must allow every person the right to inspect a public record free of charge.
- May provide electronic copies in lieu of paper, if necessary.
- May not use physical format to unreasonably hinder access.

In response to a request, a government entity is not required to:

- Compile, format, manipulate, summarize or tailor records.
- Provide a record in a format different than normally maintained.
- Fill the request if the record is available in public publication.

Fees

An agency may charge for:

- The actual cost of providing a record when it is provided in a form other than normally maintained.
- Time for summarizing and compiling,
- Staff time for direct costs such as search & retrieval.
- Charges cannot exceed the salary of the lowest paid, capable employee.

An agency may NOT charge for:

- The first 15 minutes of a search.
- Allowing requester to inspect the record.
- Reviewing a record to determine whether it is the subject of a request.

An agency is encouraged to fill the request without charge when:

- Releasing the record will benefit the public.
- The requester is the subject of the record.
- The requester's legal rights are implicated, and they claim hardship.

Denial of Request

- If agency denies a request in whole or in part, it must provide notice of denial to the requester in writing.
- The notice of denial shall contain a description of the record, citations to the applicable provisions of GRAMA, and a statement that requester can appeal denial to the chief administrative officer (CAO) of agency with the name of address of CAO.
- Agency must maintain the record until time limits for appeals have expired.

Appeal to chief administrative officer:

- Requester has 30 days to appeal to the agency's chief administrative officer.
- Notice of the petitioner's appeal is to have the petitioner's name, address, telephone number, and relief sought.
- Chief administrative officer has 5 business days to respond.

If chief administrative officer affirms the denial in whole or part, they must:

- Notify requester of the right to appeal to the State Records Committee or district court and also provide the time limits for filing the appeal.
- Provide the name and address of State Records Committee Executive Secretary.
- Petitioners may appeal denied records requests directly to the district court without appealing to the State Records Committee.

UCA 63G-2-401(7)

State Records Committee

The State Records Committee consists of seven individuals appointed by the governor to review and approve retention and disposal of records and to hear appeals for access to records.

Appeals to the State Records Committee

- Petitioners must appeal to the SRC no later than 30 days after the chief administrative officer's determination.
- A statement of facts, reasons, and legal authority in support of the appeal must be submitted to the records committee by petitioner(s) & respondent(s).
- At the hearing, parties will be allowed to testify and hear evidence.

Scheduling appeals before the records committee includes:

- Posting a public notice of time and place of hearing.
- Distributing supporting documentation for both the respondent and the petitioner to the SRC.
- The SRC may ask to review the disputed records (the disputed records must be reviewed *in camera*).
- Orders granting or denying the appeal are issued no later than 5 business days after the hearing.

Compliance with committee orders:

- If the governmental entity is ordered to release the records, the entity must file a notice of compliance or a notice of intent to appeal.
- Failure could result in a civil fine of up to \$500 for each day of continued noncompliance or a written notice of the entity's noncompliance delivered to the governor.

District Court

Any party to a proceeding before the State Records Committee may petition for judicial review by the district court.



UCA 63G-2-404(1)

Questions?

